

HB0101S01 compared with HB0101

~~deleted text~~ shows text that was in HB0101 but was deleted in HB0101S01.

inserted text shows text that was not in HB0101 but was inserted into HB0101S01.

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Representative Janice M. Fisher proposes the following substitute bill:

MOBILE HOME PARK RESIDENCY ACT AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Janice M. Fisher

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies and enacts provisions of the Mobile Home Park Residency Act.

Highlighted Provisions:

This bill:

- ▶ requires mobile home park owners annually to register with and pay a fee to the Department of Commerce;
- ▶ establishes a fund consisting of registration and late fees to pay mediation and administrative costs;
- ▶ modifies a provision relating to a mobile home park owner's change of a due date for rent, fees, and service charges;
- ▶ increases the allowable size of a "for sale" sign;
- ▶ provides that a reduction or restriction of amenities is not valid unless the mobile

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- home park owner complies with statutory notice and meeting requirements;
- ▶ limits a mobile home park owner's rent increase or decrease to once a year;
 - ▶ modifies the procedure for increasing rent on mobile home park residents;
 - ▶ establishes a process for a resident association to challenge a proposed rent or service charge increase and a mediation process to resolve a dispute between a resident association and a mobile home park owner over a rent or service charge increase;
 - ▶ authorizes a mobile home park owner to impose an assessment for capital improvements; and
 - ▶ establishes a process for a resident association to challenge a proposed assessment for capital improvements.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-16-3, as last amended by Laws of Utah 2002, Chapter 255

57-16-4, as last amended by Laws of Utah 2009, Chapter 94

ENACTS:

57-16-3.5, Utah Code Annotated 1953

57-16-16.1, Utah Code Annotated 1953

57-16-16.2, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **57-16-3** is amended to read:

57-16-3. Definitions.

As used in this chapter:

(1) "Amenities" means the following physical, recreational or social facilities located at a mobile home park:

(a) a club house;

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- (b) a park;
- (c) a playground;
- (d) a swimming pool;
- (e) a hot tub;
- (f) a tennis court; or
- (g) a basketball court.

(2) "Change of use" means a change of the use of a mobile home park, or any part of it, for a purpose other than the rental of mobile home spaces.

(3) "Fees" means other charges incidental to a resident's tenancy including, but not limited to, late fees, charges for pets, charges for storage of recreational vehicles, charges for the use of park facilities, and security deposits.

(4) "Mobile home" means a transportable structure in one or more sections with the plumbing, heating, and electrical systems contained within the unit, which when erected on a site, may be used with or without a permanent foundation as a family dwelling.

(5) "Mobile home park" means any tract of land on which two or more mobile home spaces are leased, or offered for lease or rent, to accommodate mobile homes for residential purposes.

(6) "Mobile home park owner":

(a) means the owner of a mobile home park or the owner's agent; and

(b) for purposes of notification and other communication required under this chapter, includes a managing agent, leasing agent, or resident manager, unless the written lease agreement provides otherwise.

~~[(6)]~~ (7) "Mobile home space" means a specific area of land within a mobile home park designed to accommodate one mobile home.

~~[(7)]~~ (8) "Rent" means charges paid for the privilege of occupying a mobile home space, and may include service charges and fees.

~~[(8)]~~ (9) "Resident" means an individual who leases or rents space in a mobile home park.

~~[(9)]~~ (10) "Service charges" means separate charges paid for the use of electrical and gas service improvements which exist at a mobile home space, or for trash removal, sewage and water, or any combination of the above.

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~~[(10)]~~ (11) "Settlement discussion expiration" means:

(a) the resident has failed to give a written notice of dispute within the period specified in Subsection 57-16-4.1(2); or

(b) the resident and management of the mobile home park have met together under Subsection 57-16-4.1(3) but were unsuccessful in resolving the dispute in their meeting.

Section 2. Section **57-16-3.5** is enacted to read:

57-16-3.5. Annual registration of mobile home parks -- Mobile Home Park Fund.

(1) As used in this section:

(a) "Department" means the Department of Commerce created in Section 13-1-2.

(b) "Fund" means the Mobile Home Park Fund created in Subsection (5).

(2) A mobile home park owner shall annually:

(a) register with the department in the manner and on the schedule established by the department, subject to Subsection (3); and

(b) pay a registration fee ~~as provided in Subsection (4)~~ equal to \$10 per lot within the mobile home park.

(3) The department shall require a mobile home park owner registering as required in this section to provide with each annual registration:

(a) the name, address, telephone number, and, if applicable, email address of the mobile home park owner;

(b) the name and address of the mobile home park;

(c) the name, address, telephone number, and, if applicable, email address of the mobile home park landlord or manager; and

(d) the number of lots within the mobile home park.

(4) ~~[(a) The registration fee required under Subsection (2)(b) is equal to \$10 per lot within the mobile home park.~~

~~[(b) A mobile home park owner may not charge a tenant or require a tenant to pay more than \$5 tenants the amount of the registration fee the owner is required to pay under Subsection (2).~~

(5) (a) There is created a restricted special revenue fund known as the Mobile Home Park Fund.

(b) The fund consists of:

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(i) registration fees that the department collects under this section; and

(ii) interest and other earnings derived from money in the fund.

(c) The department shall administer the fund.

(d) Money in the fund may be used to pay:

(i) mediation costs as provided in Section 57-16-16.1; and

(ii) the department's costs of administering the fund and of carrying out its

responsibilities under Section 57-16-16.1.

(e) All interest and other earnings derived from money in the fund shall be deposited into the fund.

(f) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act.

Section 3. Section **57-16-4** is amended to read:

57-16-4. Termination of lease or rental agreement -- Required contents of lease -- Increases in rents or fees -- Sale of homes -- Notice regarding planned reduction or restriction of amenities.

(1) A mobile home park [~~or its agents~~] owner may not terminate a lease or rental agreement upon any ground other than as specified in this chapter.

(2) Each agreement for the lease of mobile home space shall be written and signed by the [~~parties~~] mobile home park owner and resident.

(3) Each lease shall contain at least the following information:

(a) the name and address of the mobile home park owner and any [~~persons~~] person authorized to act for the mobile home park owner, upon whom notice and service of process may be served;

(b) the type of the leasehold, whether it be term or periodic, and, in leases entered into on or after May 6, 2002, a conspicuous disclosure describing the protection a resident has under Subsection (1) against unilateral termination of the lease by the mobile home park except for the causes described in Section 57-16-5;

(c) (i) a full disclosure of [~~all~~] rent, service charges, and other fees presently being charged on a periodic basis; and

(ii) a full disclosure of utility infrastructure owned by the mobile home park owner [~~or its agent~~] that is maintained through service charges and fees charged by the mobile home park

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owner ~~[or its agent]~~;

(d) the date ~~[or dates]~~ on which the payment of rent, fees, and service charges are due; and

(e) ~~[all rules that pertain]~~ each rule that pertains to the mobile home park that, if broken, ~~[may constitute]~~ constitutes grounds for eviction, including, in leases entered into on or after May 6, 2002, a conspicuous disclosure regarding:

(i) the ~~[causes]~~ cause for which the mobile home park owner may terminate the lease as described in Section 57-16-5; and

(ii) the resident's rights to:

(A) terminate the lease at any time without cause, upon giving the notice specified in the resident's lease; and

(B) advertise and sell the resident's mobile home.

(4) (a) ~~[Increases in rent or fees for periodic tenancies are unenforceable until 60 days after notice of the increase is mailed to the resident.]~~ A mobile home park owner may increase or decrease rent on a lease or rental agreement once a year.

(b) A proposed increase under Subsection (4)(a) may not take effect until 90 days after the mobile home park owner ~~{sends}~~ mails or delivers notice of the proposed increase ~~{ by registered or certified mail}~~ to each resident.

(c) The notice required under Subsection (4)(b) shall include the:

(i) current rent;

(ii) proposed rent; and

(iii) date the proposed increase is to take effect.

~~[(b)]~~ (5) (a) If a service ~~[charges are]~~ charge is not included in the rent, the mobile home park owner may:

(i) increase the service ~~[charges]~~ charge during the leasehold period after giving notice to the resident; and

(ii) pass through ~~[increases or decreases]~~ an increase or decrease in electricity rates to the resident.

~~[(c)]~~ (b) Annual income to the park for a service ~~[charges]~~ charge may not exceed the actual cost to the mobile home park of providing the ~~[services]~~ service on an annual basis.

~~[(d)]~~ (c) In determining the ~~[costs of the services]~~ cost of service, the mobile home

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park owner may include maintenance costs related to those utilities that are part of ~~[the]~~ a service ~~[charges]~~ charge.

~~[(e)]~~ (d) ~~[The mobile home park may not alter]~~ A change of the date on which rent, fees, and service charges are due [unless] does not take effect until 60 days after the mobile home park owner provides [a 60-day] written notice to the resident [before] of the change in the due date [is altered].

~~[(5)]~~ (6) (a) Except as provided in Subsection (3)(b), a rule or condition of a lease that purports to prevent or unreasonably limit the sale of a mobile home belonging to a resident is void and unenforceable.

(b) The mobile home park owner:

(i) may reserve the right to approve the prospective purchaser of a mobile home who intends to become a resident;

(ii) may not unreasonably withhold that approval;

(iii) may require proof of ownership as a condition of approval; or

(iv) may unconditionally refuse to approve any purchaser of a mobile home who does not register before purchasing the mobile home.

~~[(6)]~~ (7) If ~~[all of the conditions]~~ each condition of Section 41-1a-116 ~~[are]~~ is met, a mobile home park owner may request the names and addresses of the lienholder or owner of any mobile home located in the mobile home park from the Motor Vehicle Division.

~~[(7)]~~ (8) (a) A mobile home park owner may not restrict a resident's right to advertise for sale or to sell a mobile home.

(b) A mobile home park owner may limit the size of a "for sale" sign affixed to the mobile home to not more than ~~[144]~~ 288 square inches.

~~[(8)]~~ (9) A mobile home park owner may not compel a resident who wishes to sell a mobile home to sell it, either directly or indirectly, through an agent designated by the mobile home park owner.

~~[(9)]~~ (10) A mobile home park owner may require that a mobile home be removed from the park upon sale if:

(a) the mobile home park owner wishes to upgrade the quality of the mobile home park; and

(b) the mobile home either does not meet minimum size specifications or is in a

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rundown condition or is in disrepair.

~~[(10)]~~ (11)(a) Within 30 days after a mobile home park owner proposes reducing or restricting amenities, the mobile home park owner shall:

~~[(a)]~~ (i) schedule and hold at least one meeting for the purpose of discussing the proposed restriction or reduction of amenities with residents; and

~~[(b)]~~ (ii) provide at least 10 days advance written notice of the date, time, location, and purposes of the meeting to each resident.

(b) A reduction or restriction of amenities ~~is invalid unless~~ **does not take effect until** the mobile home park owner schedules and holds at least one meeting as required in Subsection (11)(a)(i) and provides notice of the meeting as required in Subsection (11)(a)(ii).

~~[(11)]~~ (12) If a mobile home park owner uses a single-service meter, the mobile home park owner shall include a full disclosure on a resident's utility bill of the resident's utility charges.

~~[(12)]~~ (13) The mobile home park owner shall have a copy of this chapter posted at all times in a conspicuous place in the mobile home park.

Section 4. Section **57-16-16.1** is enacted to read:

57-16-16.1. Resident association's challenge of rent increase -- Mediation.

(1) As used in this section, "resident association":

(a) has the same meaning as defined in Section 57-16-16; and

(b) means the primary resident association, as defined in Section 57-16-16, if the mobile home park has more than one resident association.

(2) A resident association may challenge a proposed rent increase or a proposed increase in a service charge described in Subsection 57-16-4(5) if:

(a) for a proposed rent increase, the proposed rent increase under Section 57-16-4 is more than one percentage point above the most recent United States Consumer Price Index for All Urban Consumers, Housing Component, published by the United States Bureau of Labor Statistics;

(b) a majority of the residents of the mobile home park have signed a petition stating the rent or service charge increase is unreasonable; and

(c) the resident association forwards the petition to the Department of Commerce and the mobile home park owner by registered or certified mail within 25 days after receiving a rent

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or service charge increase notice.

(3) (a) Upon receipt of the petition, the Department of Commerce shall provide a list of qualified mediators to the resident association and mobile home park owner.

(b) If the resident association and mobile home park owner do not agree on a mediator from the list within five business days after receipt of the list, the Department of Commerce shall appoint a mediator.

(4) A mediator appointed under this section:

(a) may not have any interest in the mobile home park at issue;

(b) shall provide written disclosure to the resident association and mobile home park owner of any perceived conflict of interest; and

(c) shall conduct one or more mediation sessions, to be completed at least 10 days before the effective date of the proposed rent increase.

(5) The mobile home park owner:

(a) at least five days before the initial mediation session, shall provide to the mediator and the resident association information to support the proposed rent or service charge increase; and

(b) has the burden of providing information to show that the proposed rent or service charge increase is reasonable.

(6) (a) Upon completion of the mediation, the mediator shall issue a signed report to the:

(i) resident association;

(ii) mobile home park owner; and

(iii) Department of Commerce.

(b) If an agreement is reached in mediation:

(i) the mediator's report shall include the terms of the agreement, including, if applicable, the amount of a rent or service charge increase and its effective date; and

(ii) the mobile home park owner is not required to provide any additional notice in order for the rent or service charge increase to take effect pursuant to the mediation agreement.

(7) (a) Subject to Subsection (7)(b), the Department of Commerce shall pay the cost of mediation with money from the fund established in Section 57-16-3.5.

(b) The amount that the Department of Commerce pays for a single mediation under

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this section may not exceed \$5,000.

~~{ (c) If the cost of a single mediation exceeds \$5,000, the mobile home park owner shall pay half of the excess cost and the resident association shall pay the other half.~~

‡ Section 5. Section **57-16-16.2** is enacted to read:

57-16-16.2. Infrastructure assessments for capital improvements -- Resident association challenge of assessment.

(1) As used in this section, "capital improvement":

(a) means an installation or repair of infrastructure in a mobile home park that:

(i) is necessary for the delivery of water, sewer, electrical, or other basic service to a resident;

(ii) is owned by the mobile home park owner but available for use by a resident; and

(iii) costs \$5,000 or more; and

(b) includes roads and amenities located within the mobile home park.

(2) A mobile home park owner may impose an assessment for a capital improvement if:

(a) the assessment is imposed in equal amounts to each resident over half of the estimated useful life of the capital improvement, unless the mobile home park owner and the resident association agree otherwise; and

(b) the mobile home park owner provides each resident a 90-day notice of assessment, by registered or certified mail, that includes:

(i) a description of the capital improvement;

(ii) an estimated cost of the capital improvement;

(iii) the amount to be assessed each month; and

(iv) the number of months the assessment will be imposed.

(3) Notwithstanding Subsection (2), a resident association, as defined in Section 57-17-16.1, may challenge an assessment imposed by a mobile home park owner under Subsection (2) in the same manner that the resident association may challenge a rent increase under Section 57-16-16.1.

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Legislative Review Note

~~as of 1-25-11 11:57 AM~~

~~Office of Legislative Research and General Counsel~~